

**Chapter 33.04 RCW  
GENERAL PROVISIONS**

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**RCW 33.04.002 Legislative declaration, intent—Purpose.** The legislature finds that the statutory law relating to savings and loan associations has not been generally updated or modernized since 1945; and, as a result, many changes to Title 33 RCW should now be made with respect to the powers and duties of the director; to the provisions relating to the organization, management and conversion of savings and loan associations; and to the powers and restrictions placed upon savings and loan associations to make investments. While it is the intent of the legislature to grant permissive investment powers to state-chartered savings and loan associations, it does not intend these associations to abandon the residential financing market in Washington. It, therefore, finds that the powers granted in chapter 3, Laws of 1982 are for the purpose of updating and modernizing the law relating to savings and loan associations, thereby creating a more secure and responsive financial environment in which the residential homebuyer will continue to obtain financing. [1994 c 92 s 413; 1982 c 3 s 1.]

**Severability—1982 c 3:** "If any provision of this act or its application to any person or circumstance is held invalid, the

remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 3 s 118.]

**RCW 33.04.004 Short title.** This title may be known and cited as the Washington savings association act. [2014 c 37 s 601.]

**Legislative declarations—Effective date—2014 c 37:** See RCW 30A.04.005 and 30A.04.902.

**RCW 33.04.005 Definitions.** Unless the context requires otherwise, the definitions in this section apply throughout this title.

(1) "Branch" means an established manned place of business or a manned mobile facility or other manned facility of an association, other than the principal office, at which deposits may be taken.

(2) "Depositor" means a person who deposits money in an association.

(3) "Domestic association" means a savings and loan association which is incorporated under the laws of this state.

(4) "Federal association" means a savings and loan association which is incorporated under federal law.

(5) "Foreign association" means a savings and loan association organized under the laws of another state.

(6) (a) "Member," in a mutual association, means a depositor or any other person who is a member of a class of persons granted membership rights by the articles of incorporation or bylaws.

(b) "Member," in a stock association, means a stockholder or any other person who is a member of a class of persons granted membership rights by the articles of incorporation or bylaws.

(7) "Mutual association" means an association formed without authority to issue stock.

(8) "Savings and loan association," "savings association" or "association," unless otherwise restricted, means a domestic or foreign association and includes a stock or a mutual association.

(9) "Stock association" means an association formed with the authority to issue stock.

(10) "Department" means department of financial institutions.

(11) "Director" means director of financial institutions. [1994 c 92 s 414; 1982 c 3 s 2.]

**Severability—1982 c 3:** See note following RCW 33.04.002.

**RCW 33.04.011 "Mortgage" includes deed of trust and real estate contract.** See RCW 33.24.005.

**RCW 33.04.020 Director—Powers and duties.** The director:

(1) Shall be charged with the administration and enforcement of this title and shall have and exercise all powers necessary or convenient thereunto;

(2) Shall issue to each association doing business hereunder, when it shall have paid its annual license fee and be duly qualified

otherwise, a certificate of authority authorizing it to transact business;

(3) Shall require of each association an annual statement and such other reports and statements as the director deems desirable, on forms to be furnished by the director;

(4) Shall require each association to conduct its business in compliance with the provisions of this title;

(5) Shall visit and examine into the affairs of every association, at least once in each biennium; may appraise and revalue its investments and securities; and shall have full access to all the books, records, papers, securities, correspondence, bank accounts, and other papers of such association for such purposes. The director may accept in lieu of an examination the report of the examining division of the federal home loan bank board, or the report of the savings and loan department of another state, which has made and submitted a report of the condition of the affairs of the association, and if approved, the report shall have the same force and effect as though the examination were made by the director or one of his or her appointees;

(6) May accept or exchange any information or reports with the examining division of the federal home loan bank board or other like agency which may insure the accounts in an association or to which an association may belong or with the savings and loan department of another state which has authority to examine any association doing business in this state;

(7) May visit and examine into the affairs of any nonpublicly-held corporation in which the association has a material investment and any publicly-held corporation the capital stock of which is controlled by the association; may appraise and revalue its investments and securities; and shall have full access to all the books, records, papers, securities, correspondence, bank accounts, and other papers of such corporation for such purposes;

(8) May, in the director's discretion, administer oaths to and to examine any person under oath concerning the affairs of any association or nonpublicly-held corporation in which the association has a material investment and any publicly-held corporation the capital stock of which is controlled by an association and, in connection therewith, to issue subpoenas and require the attendance and testimony of any person or persons at any place within this state, and to require witnesses to produce any books, papers, documents, or other things under their control material to such examination; and

(9) Shall have power to commence and prosecute actions and proceedings to enforce the provisions of this title, to enjoin violations thereof, and to collect sums due to the state of Washington from any association. [1994 c 92 s 416; 1982 c 3 s 4; 1979 c 113 s 1; 1973 c 130 s 22; 1945 c 235 s 95; Rem. Supp. 1945 s 3717-214. Prior: 1933 c 183 ss 79, 94, 95; 1919 c 169 s 12; 1913 c 110 s 19; 1890 p 56 s 19.]

**Severability—1982 c 3:** See note following RCW 33.04.002.

**Severability—1979 c 113:** "If any provision of this 1979 act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 c 113 s 17.]

**Severability—1973 c 130:** See note following RCW 33.24.350.

**RCW 33.04.022 Director—Powers under chapter 19.144 RCW.** The director or the director's designee may take such action as provided for in this title to enforce, investigate, or examine persons covered by chapter 19.144 RCW. [2008 c 108 s 19.]

**Findings—2008 c 108:** See RCW 19.144.005.

**RCW 33.04.025 Rules.** The director shall adopt uniform rules in accordance with the administrative procedure act, chapter 34.05 RCW, to govern examinations and reports of associations and the form in which they shall report their assets, liabilities, and reserves, charge off bad debts and otherwise keep their records and accounts, and otherwise to govern the administration of this title. The director shall mail a copy of the rules to each savings and loan association at its principal place of business. The person doing the mailing shall make and file his or her affidavit thereof in the office of the director. [1994 c 92 s 417; 1982 c 3 s 5; 1973 c 130 s 20.]

**Severability—1982 c 3:** See note following RCW 33.04.002.

**Severability—1973 c 130:** See note following RCW 33.24.350.

**RCW 33.04.030 Compelling attendance of witnesses.** In event any person shall refuse to appear in compliance with any subpoena issued by the director or shall refuse to testify thereunder, the superior court of the state of Washington for the county in which such witness was required by said subpoena to appear, upon application of the director, shall have jurisdiction to compel such witness to attend and testify and to punish for contempt any witness not complying with the order of the court. [1994 c 92 s 418; 1945 c 235 s 96; Rem. Supp. 1945 s 3717-215. Prior: 1933 c 183 ss 94, 95; 1919 c 169 s 12; 1913 c 110 s 19.]

**RCW 33.04.042 Cease and desist order—Notice of charges—Grounds—Hearing on—Issuance of order, when—Contents—Effective, when.** (1) The director may issue and serve upon an association a notice of charges if in the opinion of the director the association:

- (a) Is engaging or has engaged in an unsafe or unsound practice in conducting the business of the association;
- (b) Is violating or has violated a material provision of any law, rule, or any condition imposed in writing by the director in connection with the granting of any application or other request by the association or any written agreement made with the director; or
- (c) Is about to do the acts prohibited in (a) or (b) of this subsection if the opinion that the threat exists is based upon reasonable cause.

(2) The notice shall contain a statement of the facts constituting the alleged violation or violations or the practice or practices and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist should issue

against the association. The hearing shall be set not earlier than ten days nor later than thirty days after service of the notice unless a later date is set by the director at the request of the association.

Unless the association appears at the hearing by a duly authorized representative, it shall be deemed to have consented to the issuance of the cease and desist order. In the event of this consent or if upon the record made at the hearing the director finds that any violation or practice specified in the notice of charges has been established, the director may issue and serve upon the association an order to cease and desist from the violation or practice. The order may require the association and its directors, officers, employees, and agents to cease and desist from the violation or practice and may require the association to take affirmative action to correct the conditions resulting from the violation or practice.

(3) A cease and desist order shall become effective at the expiration of ten days after the service of the order upon the association concerned except that a cease and desist order issued upon consent shall become effective at the time specified in the order and shall remain effective as provided therein unless it is stayed, modified, terminated, or set aside by action of the director or a reviewing court. [1994 c 92 s 419; 1982 c 3 s 7.]

**Severability—1982 c 3:** See note following RCW 33.04.002.

**RCW 33.04.044 Temporary cease and desist order—Issued, when—Effective, when—Duration.** Whenever the director determines that the acts specified in RCW 33.04.042 or their continuation is likely to cause insolvency or substantial dissipation of assets or earnings of the association or to otherwise seriously prejudice the interests of its depositors, the director may also issue a temporary order requiring the association to cease and desist from the violation or practice. The order shall become effective upon service on the association and shall remain effective unless set aside, limited, or suspended by a court in proceedings under RCW 33.04.046 pending the completion of the administrative proceedings under the notice and until such time as the director shall dismiss the charges specified in the notice or until the effective date of a cease and desist order issued against the association under RCW 33.04.042. [1994 c 92 s 420; 1982 c 3 s 8.]

**Severability—1982 c 3:** See note following RCW 33.04.002.

**RCW 33.04.046 Temporary cease and desist order—Injunction against order on application of association—Jurisdiction.** Within ten days after an association has been served with a temporary cease and desist order, the association may apply to the superior court in the county of its principal place of business for an injunction setting aside, limiting, or suspending the order pending the completion of the administrative proceedings pursuant to the notice served under RCW 33.04.044.

The superior court shall have jurisdiction to issue the injunction. [1982 c 3 s 9.]

**Severability—1982 c 3:** See note following RCW 33.04.002.

**RCW 33.04.048 Temporary cease and desist order—Injunction to enforce—Jurisdiction.** In the case of a violation or threatened violation of a temporary cease and desist order issued under RCW 33.04.044, the director may apply to the superior court of the county of the principal place of business of the association for an injunction to enforce the order, and the court shall issue an injunction if it determines that there has been a violation or threatened violation. [1994 c 92 s 421; 1982 c 3 s 10.]

**Severability—1982 c 3:** See note following RCW 33.04.002.

**RCW 33.04.052 Cease and desist order—Administrative hearing—Procedure—Modification, termination, or setting aside of order—Review of order, procedure—Manner of service of notice or order.** (1) Any administrative hearing provided in RCW 33.04.042 may be held at such place as is designated by the director and shall be conducted in accordance with chapter 34.05 RCW. The hearing shall be private unless the director determines that a public hearing is necessary to protect the public interest after fully considering the views of the party afforded the hearing.

Within sixty days after the hearing, the director shall render a decision which shall include findings of fact upon which the decision is based and the director shall issue and serve upon each party to the proceeding an order or orders consistent with RCW 33.04.042.

Unless a petition for review is timely filed in the superior court of the county of the principal place of business of the affected association under subsection (2) of this section and until the record in the proceeding has been filed as therein provided, the director may at any time modify, terminate, or set aside any order upon such notice and in such manner as the director deems proper. Upon filing the record, the director may modify, terminate, or set aside any order only with permission of the court.

The judicial review provided in this section for an order shall be exclusive.

(2) Any party to the proceeding or any person required by an order issued under RCW 33.04.042, 33.04.044 or 33.04.048 to refrain from any of the violations or practices stated therein may obtain a review of any order served under subsection (1) of this section other than one issued upon consent by filing in the superior court of the county of the principal place of business of the affected association within ten days after the date of service of the order a written petition praying that the order of the director be modified, terminated, or set aside. A copy of the petition shall be immediately served upon the director and the director shall then file in the court the record of the proceeding. The court shall have jurisdiction upon the filing of the petition, which jurisdiction shall become exclusive upon the filing of the record to affirm, modify, terminate, or set aside in whole or in part the order of the director except that the director may modify, terminate, or set aside an order with the permission of the court. The judgment and decree of the court shall be final, except that it is subject to appellate review under the rules of court.

(3) The commencement of proceedings for judicial review under subsection (2) of this section shall not operate as a stay of any order issued by the director unless specifically ordered by the court.

(4) Service of any notice or order required to be served under RCW 33.04.042 or 33.04.044 shall be accomplished in the same manner as required for the service of process in civil actions in superior courts of this state. [1994 c 92 s 422; 1982 c 3 s 11.]

**Severability—1982 c 3:** See note following RCW 33.04.002.

**RCW 33.04.054 Cease and desist order—Enforcement—Jurisdiction.**

The director may apply to the superior court of the county of the principal place of business of the association affected for the enforcement of any effective and outstanding order issued under RCW 33.04.042, 33.04.044, or 33.04.048, and the court shall have jurisdiction to order compliance therewith.

No court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any order or to review, modify, suspend, terminate, or set aside any order except as provided in RCW 33.04.046 and 33.04.052. [1994 c 92 s 423; 1982 c 3 s 12.]

**Severability—1982 c 3:** See note following RCW 33.04.002.

**RCW 33.04.060 Appellate review.** An association may petition the superior court of the state of Washington for Thurston county for the review of any decision, ruling, requirement or other action or determination of the director, by filing its complaint, duly verified, with the clerk of the court and serving a copy thereof upon the director. Upon the filing of the complaint, the clerk of the court shall docket the same as a cause pending therein.

The director may answer the complaint and the petitioner reply thereto, and the cause shall be heard before the court as in other civil actions. Both the petitioner and the director may seek appellate review of the decision of the court to the supreme court or the court of appeals of the state of Washington. [1994 c 92 s 424; 1988 c 202 s 32; 1971 c 81 s 84; 1945 c 235 s 115; Rem. Supp. 1945 s 3717-234. Prior: 1933 c 183 s 95.]

**Severability—1988 c 202:** See note following RCW 2.24.050.

**RCW 33.04.090 Saturday closing authorized.** See RCW 30A.04.330.

**RCW 33.04.110 Examination reports and information—Confidential and privileged—Exceptions, limitations and procedure—Penalty.** (1)

Except as otherwise provided in this section, all examination reports and all information obtained by the director and the director's staff in conducting examinations of associations are confidential and privileged information and shall not be made public or otherwise disclosed to any person, firm, corporation, agency, association, governmental body, or other entity.

(2) Subsection (1) of this section notwithstanding, the director may furnish in whole or in part examination reports prepared by the director's office to federal agencies empowered to examine state associations, to savings and loan supervisory agencies of other states which have authority to examine associations doing business in this

state, to the attorney general in his or her role as legal advisor to the director, to the examined association as provided in subsection (4) of this section, and to officials empowered to investigate criminal charges. If the director furnishes any examination report to officials empowered to investigate criminal charges, the director may only furnish that part of the report which is necessary and pertinent to the investigation, and the director may do this only after notifying the affected savings and loan association and any customer of the savings and loan association who is named in that part of the report of the order to furnish the part of the examination report unless the officials requesting the report first obtain a waiver of the notice requirement from a court of competent jurisdiction for good cause. The director may also furnish in whole or in part examination reports concerning any association in danger of insolvency to the directors or officers of a potential acquiring party when, in the director's opinion, it is necessary to do so in order to protect the interests of members, depositors, or borrowers of the examined association.

(3) All examination reports furnished under subsection (2) of this section shall remain the property of the department of financial institutions and, except as provided in subsection (4) of this section, no person, agency, or authority to whom reports are furnished or any officer, director, or employee thereof shall disclose or make public any of the reports or any information contained therein except in published statistical material that does not disclose the affairs of any individual or corporation: PROVIDED, That nothing herein shall prevent the use in a criminal prosecution of reports furnished under subsection (2) of this section.

(4) The examination report made by the department of financial institutions is designed for use in the supervision of the association, and the director may furnish a copy of the report to the savings and loan association examined. The report shall remain the property of the director and will be furnished to the association solely for its confidential use. Neither the association nor any of its directors, officers, or employees may disclose or make public in any manner the report or any portion thereof without permission of the board of directors of the examined association. The permission shall be entered in the minutes of the board.

(5) Examination reports and information obtained by the director and the director's staff in conducting examinations shall not be subject to public disclosure under chapter 42.56 RCW.

(6) In any civil action in which the reports are sought to be discovered or used as evidence, any party may, upon notice to the director, petition the court for an in camera review of the report. The court may permit discovery and introduction of only those portions of the report which are relevant and otherwise unobtainable by the requesting party. This subsection shall not apply to an action brought or defended by the director.

(7) This section shall not apply to investigation reports prepared by the director and the director's staff concerning an application for a new association or an application for a branch of an association. The director may adopt rules making confidential portions of such reports if in the director's opinion the public disclosure of the portions of the report would impair the ability to obtain the information which the director considers necessary to fully evaluate the application.



(8) Every person who intentionally violates any provision of this section is guilty of a gross misdemeanor. [2005 c 274 s 261; 1994 c 92 s 425; 1982 c 3 s 6; 1977 ex.s. c 245 s 3.]

**Severability—1982 c 3:** See note following RCW 33.04.002.

**Severability—1977 ex.s. c 245:** See note following RCW 30A.04.075.

*Examination reports and information from financial institutions exempt: RCW 42.56.400.*

**RCW 33.04.120 Automated teller machines and night depositories security.** Chapter 19.174 RCW applies to automated teller machines and night depositories regulated under this title. [1993 c 324 s 13.]

**Effective date—1993 c 324:** See RCW 19.174.900.